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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,803	01/24/2002	Anthony Jabar JR.	099505 /S1061	9378

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05/09/2005

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EXAMINER

GRUNBERG, ANNE MARIE

ART UNIT PAPER NUMBER

1661

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,803

Applicant(s)

JABAR ET AL.

Examiner

Anne Marie Grunberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/24/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The amended claims and remarks filed 1/24/05 have been received. There is an error in claim 17 in the recitation "groupconsisting". This typographical error should be fixed with Applicant's next communication. Additionally, in claim 9, line 2, "peptide polysaccharide" should be spelled --peptide-polysaccharide-- with a dash inserted between "peptide" and "polysaccharide".

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 1/24/05 was filed within three months of the mailing date of the PCT International Search Report. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-9 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Stubbs et al.

Claims 8-9 and 16-20 are directed to a composition comprising a cut potato piece and coating wherein the coating comprises a peptide-polysaccharide complex

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comprising a peptide and a polysaccharide wherein the peptide is zein and is present in an amount of 2-90% by weight of the dry weight of the total peptide-polysaccharide complex and the polysaccharide is present in an amount of 10-98% by weight of the dry weight of the peptide-polysaccharide complex. The peptide may also be present at 2-30% by weight of the dry weight of the peptide polysaccharide complex and the polysaccharide may be present in an amount of 70-98% by weight of the dry weight of the peptide-polysaccharide complex. The polysaccharide may be a cellulosic derivative and may be selected from several different derivatives. The polysaccharide is starch or starch derivative and may be pectin or exudates gum polysaccharide.

Stubbs et al teach a composition comprising a cut potato piece and coating (column 8, lines 11-12 and 28-30, for example) wherein the coating comprises a peptide-polysaccharide complex (Table 1, Table 3, Table 5, Table 8, etc). Zein is inherently found in grain flour such as corn flour and is present in an amount of 2-90% by weight of the dry weight of the total peptide-polysaccharide complex that is in flour (see Food Resource <http://food.oregonstate.edu/faq/plant/vegetable/zein/.html> and <http://www.fao.org/docrep/T0395E/T0395E02.htm>) and the polysaccharide is inherently present in flour (as starch, etc) in an amount of 10-98% by weight of the dry weight of the peptide-polysaccharide complex (see <http://www.fao.org/docrep/T0395E/T0395E02.htm>, Table 5, for example). The peptide may also be present at 2-30% by weight of the dry weight of the peptide polysaccharide complex and the polysaccharide may be present in an amount of 70-98% by weight of the dry weight of the peptide-polysaccharide complex as shown above. Cellulosic

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derivatives are also inherently found in flour as is starch, starch derivatives, pectin and exudates gum polysaccharide (see for example <http://www.fao.org/docrep/x2184e/x2184e04.htm>). As a result, the claims read on a French fry or other potato part that has dipped in a corn flour or other flour slurry such as that taught by Stubbs et al (abstract, Fig. 1, column 1, lines 35-42, etc).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

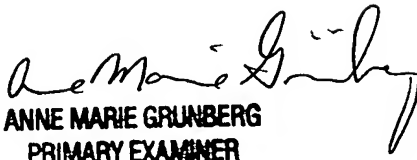
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie Grunberg whose telephone number is 571-272-0975. The examiner can normally be reached on Monday - Friday 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANNE MARIE GRUNBERG
PRIMARY EXAMINER